

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RUBEN PORTER,	§	
	§	No. 128, 2011
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware in
v.	§	and for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 1003012332
Appellee.	§	

Submitted: August 4, 2011
Decided: October 20, 2011

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

O R D E R

This 20th day of October 2011, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26(c), his attorney's motion to withdraw, and the State's response, it appears to the Court that:

(1) On September 13, 2010, the appellant, Ruben Porter, pled guilty to Assault in the First Degree, Possession of a Deadly Weapon During the Commission of a Felony, Assault in a Detention Facility, and Possession of a Deadly Weapon by a Person Prohibited. On January 14, 2011, Porter was sentenced to a total of twenty-eight years at Level V suspended after twenty-five years for one year at Level III supervision and two years at Level I supervision. This is Porter's direct appeal.

(2) Porter’s appellate counsel (“Counsel”)¹ has filed a brief and a motion to withdraw pursuant to Supreme Court Rule 26(c) (“Rule 26(c)”)². Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel also reports that Porter did not submit any points for the Court’s consideration.³ The State has moved to affirm the Superior Court’s judgment.

(3) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims.⁴ The Court must also conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.⁵

(4) In this case, the Court has reviewed the record carefully and has concluded that Porter’s appeal is wholly without merit and devoid of any arguably appealable issue. We are satisfied that Counsel made a

¹ Porter was represented by different counsel at trial.

² See Del. Supr. Ct. R. 26(c) (governing criminal appeals without merit).

³ The record reflects that Counsel provided Porter, as required, with a copy of the motion, the brief and appendix, and a letter explaining that Porter had a right to submit written points for the Court’s consideration. *Id.*

⁴ *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

⁵ *Id.*

conscientious effort to examine the record and the law and properly determined that Porter could not raise a meritorious claim on appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice